THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

-

WRIT PETITION NO :4241 of 1998

-

DATED; 12-09-2005

Between:

1. The Deputy Secretary (PVA),

Government of India, Ministry of

External Affairs (CPV Division)

New Delhi and two others …..Petitioners

AND

1. K. Naga Srinivasarao and another ….Respondents

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

-

WRIT PETITION NO :4241 of 1998

-

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

When the matter is coming up for hearing on 8-9-2005, the learned Counsel for the

1st respondent is absent. Hence the matter is listed to today for orders. Even today also the learned Counsel for the 1st respondent is absent and hence, the matter is decided basing on the record.

This writ petition is filed seeking a direction, in the nature of writ of certiorari, to set aside the order of Central Administrative Tribunal, Hyderabad in O.A.No.458 of 1995, dated 21.11.1992.

The writ petitioners herein are the respondents and the first respondent herein is the applicant in the above O.A.

The case of the writ petitioners is that the 1st respondent was appointed as L.D.C. in Passport Office, Hyderabad on 21-07-1993. As per the terms and conditions of the appointment, the 1st respondent would be on probation for a period of two years. During the course of his probation, the 2nd petitioner received complaints as to the involvement of the 1st respondent in tearing/removal of Index cards in passport office. Then, the 2nd petitioner has recommended termination of the services of the 1st respondent. Consequently, the 1st respondent was terminated by proceedings F. 19 [27) AD/93, dated 25.01.1993. Hence, the 1st respondent approached the Tribunal vide O.A.No.458 of 1995 and the said O.A. was allowed and the petitioners herein have been directed to reinstate the 1st respondent. Aggrieved by the same, the petitioners filed the present writ petition.

The learned Counsel for the petitioners contended that the 1st respondent was appointed temporarily and his probation period is for two years and as per the terms of paragraph 2 (a) of appointment, his probation can be extended or he may be terminated without any notice. He further contended that on certain allegations, the 1st respondent was terminated from service, while he was on probation, and therefore, he is not entitled to be reinstated into service and hence, the order of the Tribunal is liable to be set aside.

On the other hand, the learned Counsel for the 1st respondent contends that the explanation submitted by the 1st respondent as to the allegations made against

him was not considered and the petitioners terminated the services of the 1st respondent without conducting any enquiry under CCA Rules and therefore, the Tribunal is justified in directing the petitioners to reinstate the 1st respondent into service.

Perused the material available on record.

As can be seen from the record, it appears, the 1st respondent was terminated from his service, while he was on probation, on the allegation that he was involved in tearing and removal of index cards in the pass-port office. The order of termination was with stigma attached.

Before terminating the services, the department has to ascertain the truth or otherwise of such allegations by conducting enquiry and by affording an opportunity to the 1st respondent to put forth his case, and then, it has to pass appropriate orders. Admittedly, in the instant case, no enquiry was conducted as to the allegations made against the 1st respondent. It is the case of the petitioners that as per terms and conditions stipulated in the order of appointment, enquiry is not necessary. In the instant case, as the termination was made on certain allegations, the CCA Rules come into play and therefore, the findings of the Tribunal in this regard hold good.

On the other hand, as the allegations made against the 1st respondent are serious in nature, in the absence of any enquiry proceedings and its report, it cannot be said that the 1st respondent has not been involved in any acts alleged against him.

Under the above circumstances, while confirming the order of the Tribunal to the effect that the proceedings No.F.19 (27)AD/93, dated 25.1.1995 is set aside, we set aside the Order of the Tribunal with regard to the reinstatement of the 1st respondent into service and direct the petitioners to conduct enquiry in accordance with the Rules, after affording an opportunity to the 1st respondent to put forth his

case, and pass appropriate orders within a period of three months from the date of receipt of a copy of this Order. No order as to costs.

Subject to the above observations, the writ petition is allowed. No order as to costs.

_____

Justice T. Meena Kumari

_____

Justice P. Lakshmana Reddy

Dated: 12.09.2005

Nn.